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SUBJECT: UPOV Meeting, March 30 to April 3, 2009

¶1. Summary: The Forty-Fifth Session of the Technical Committee (TC), The Fifty-Ninth Session of the Administrative and Legal Committee (CAJ), the Seventy-Seventh Session of the Consultative Committee (CC), the Twenty-Sixth Extraordinary Session of the Council (C), and the Ad-Hoc Subgroup of Technical and Legal Experts of Biochemical and Molecular Techniques (BMT Review Group) for the International Union for the Protection of New Varieties of Plants (UPOV) were held in Geneva on March 30 to April 3, 2009. Issues directed to the plant variety database, the use of molecular techniques in the variety testing, electronic application, the adoption of UPOV documents, the approval of the draft Program and Budget of the Union, the financial regulations and rules of UPOV, the procedure for the appointment of a new Vice Secretary General, and the law for the protection of plant varieties of Peru were addressed. END SUMMARY

¶2. The Forty-Fifth Session of the TC took place on March 30 to April 1, 2009. The UPOV office informed the committee about the agreement between UPOV and WIPO concerning the UPOV Plant Variety Database. WIPO had agreed to undertake collation of data for the UPOV-ROM and to provide necessary assistance to deliver the program improvements concerning options for receiving data for UPOV-ROM in various formats and assistance in allocation of UPOV codes to all entries. WIPO has planned to also undertake development of a web-based version of the UPOV Plant Variety Database.

¶3. The TC considered two proposals on Electronic Application Systems. Proposal 1 involves standardized reference by authority to the UPOV Model Application Form, UPOV technical questions (TQ) and/or UPOV test guidelines TQ, and Proposal 2 involves the use of information provided in an electronic version of the UPOV Model Application Form (and possibly the UPOV Model TQ and UPOV test guidelines TQ). There was very little interest expressed by members. New Zealand expressed support for Proposal 1, European Community and International Seed Federation (ISF) expressed a preference for Proposal 2, and the United States expressed concerns about the limited interest and the resource implications. Nevertheless, the United States supported preliminary work to be performed in accordance with Proposal 1, and requested a cost analysis.

¶4. The TC discussed the UPOV Guidelines for DNA-profiling: molecular marker selection and database construction (BMT Guidelines) and agreed that the document BMT guideline (proj. 14) would be submitted for adoption by the Council after the French, German and Spanish translations of the original English text have been checked.

¶5. The TC discussed technical guidelines for describing physiological characteristics of varieties which would be scheduled for adoption by the Council in October 2009. The TC amended the guidelines to clarify disease tolerance and abiotic tolerance characteristics.

¶6. The Ad-hoc Subgroup of Technical and Legal Experts of Biochemical and Molecular Techniques (BMT Review Group) held its meeting on April 2, 2009. The BMT Review Group considered the proposal from an expert from France on "possible use of molecular techniques in DUS testing on maize: how to integrate a new tool to serve the effectiveness of protection offered under the UPOV system," and found that the proposal was acceptable for consideration by the CAJ.

¶7. The CAJ also held its meeting on April 2. The CAJ noted the report from the Vice Secretary-General on "the system for combining phenotypic and molecular distances in the management of variety collections." The report will be posted at the UPOV website.

¶8. The CAJ approved UPOV documents concerning "Guidance for New Types and Species" and "Special Characteristics." The documents will be submitted to the council for adoption, after the translations have been reviewed.

¶9. The CC held its meeting on April 3, 2009. The CC considered and took a positive decision on the conformity of the legislation of Peru (Decision 345 on Common Provisions for the Protection of the Rights of Breeders of Plant Varieties and the Draft Supreme Decree establishing the Regulations for the Protection of Rights of Breeders of Plant Varieties) with the provisions of the 1991 Act of the UPOV Convention.

¶10. The CC decided to establish an ad hoc working group on the Financial Regulations and Rules of UPOV (FRR Working Group) to meet in October 2009 and provide guidance to the office of the Union on the financial regulations and rules of UPOV. The composition of FRR Working Group will be based on the composition of the Consultative Group which includes representatives from Argentina, Australia, France, Germany, Japan, Kenya, Mexico, Netherlands, Russian Federation, Spain, and the United States. The meeting of FRR Working Group will be open to other interested members.

¶11. The CC agreed to extend the terms of reference of the FRR Working Group to enable it to assist the Office of the Union in its preparation of proposals concerning an external audit committee and internal audit provisions for UPOV.

¶12. The CC considered and endorsed the structure of the Draft Program and Budget of the Union for the 2010-1011 Biennium.

¶13. The CC discussed the procure for appointment of a new Vice Secretary-General, and agreed to change one of the requirements for the qualification of the applicants to: "must" (instead of should) have wide experience in the application of laws of his or her country on the protection of new varieties of plants, and also in the application of the UPOV convention.

¶14. The CC approved the procedure and timetable for the appointment of the new Vice Secretary-General, as set out below:

a) to finalize the circular announcing the vacancy and general description of the post and an outline of the conditions of employment of the post;

b) to request the Secretary-General to announce the vacancy by the end of May 2009;

c) to set the remuneration and other benefits at the D.2 or assistant Secretary-General (ASG) level of the United Nations common system, according to the experience and qualifications of the successful applicant;

d) to establish a deadline for the receipt of applications by August 31, 2009; to send to each member of the Union, as soon as possible after August 31, 2009, a copy of the applications received;

e) to add an agenda item for the seventy-eight session of the CC to be held in October 21, 2009, to consider applications received for the post of Vice Secretary-General and to establish an Ad hoc Sub-Committee, charged with interviewing the selected candidates at the beginning of 2010;

f) to arrange for the selected candidates to meet with the Ad hoc Sub-Committee by end of January/beginning of February 2010;

g) to convene the seventy-ninth session of the CC and an extraordinary session of the Council on March 26, 2010, and after seeking the agreement of the Secretary-General, to make a recommendation on the appointment of the new Vice Secretary-General

to the Council.

The composition of the Ad hoc Sub-Committee is based on the Consultative Group which includes representatives from Argentina, Australia, France, Germany, Japan, Kenya, Mexico, Netherlands, Russian Federation, Spain, and the United States. It is agreed that there should be some flexibility in the composition of the Ad hoc Sub-Committee.

¶15. The CC noted the documents relating to the development concerning the Convention on Biological Diversity (CBD), the Food and Agriculture Organization of the United Nations (FAO), the World Intellectual Property Organization (WIPO), and the Second Word Seed Conference.

¶16. The CC also noted the information relating to the Council for TRIPS concerning the review of Articles 27.3(b) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement").

¶17. The Council held its Twenty-sixth extraordinary session on April 3, 2009. The council took a positive decision of the plant variety laws of Peru. This means that once the Regulations of the Draft Supreme Decree are adopted, with no changes, and in force, Peru may deposit its instrument of accession to the 1991 Act.

¶18. The President of the Council reported that Costa Rica had become the sixty-seventh member of the Union on January 12, 2009.

¶19. The Council approved the procedure and timetable for the appointment of the new Vice-Secretary General in 2010.

¶20. The Council noted the tentative calendar for the October 2009 sessions: October 19-20,-CAJ; October 20-Ad hoc Sub-Committee charged with interviewing the selected candidates for the post of Vice Secretary-General; October 21-CC, October 22-C, October 22-FRR Working Group; Oct 23-Administrative and Legal Committee Advisory Group.

¶21. The United States delegation consisted of Kitisri Sukhapinda (USPTO), Anne Marie Grunberg (USPTO) and Paul Zankowski (PVPO).

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